

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DANNY MARVIN NEAL and RICHARD A. KELLEY

Appeal No. 2002-1375
Application No. 09/353,948

ON BRIEF

Before DIXON, BLANKENSHIP, and SAADAT, **Administrative Patent Judges**.
DIXON, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-30.
Claim 31 has been indicated as allowable.

We REVERSE.

BACKGROUND

Appellants' invention relates to a video conferencing apparatus and method therefor. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A videoconferencing, [sic, video conferencing] method comprising the steps of :

determining changes in position of a predetermined set of reference points on one or more participants;

sending said changes in position to one or more receivers; and

in said one or more receivers, animating one or more linear frame representations corresponding to said one or more participants in response to said changes in position.

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Nitta

5,347,306

Sep. 13, 1994

Claims 1-30 stand rejected under 35 U.S.C. § 102 as being anticipated by Nitta.

Rather than reiterate the conflicting viewpoints advanced by the examiner and appellants regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 11, mailed Jul. 30, 2001) for the examiner's reasoning in support of the rejections, and to appellants' brief (Paper No. 10, filed May 17, 2001) and reply brief (Paper No. 12, filed Oct. 5, 2001) for appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art reference, and to the respective positions articulated by appellants and the examiner. As a consequence of our review, we make the determinations which follow.

Appellants argue that the examiner must show the invention as claimed, and the examiner has not met that burden. (See brief at pages 6-7.) The examiner maintains that Nitta teaches the claimed invention and that the non-realistic animated figures (dolls and caricature) portray conferees which are not real people but only representations of them. (See answer at pages 5-6.) The examiner maintains that this reads on appellants' linear frame representation in accordance with appellants' description in the specification at page 5 of using stick figure representations of objects. (See answer at page 6.) We disagree with the examiner's rationale. From our review of the teachings of Nitta, the stored animated dolls or characters are not expressly disclosed or illustrated as stick figures or linear frame representations. While we agree with the examiner's presumed view that these animated dolls or characters could be stick figures or linear frame representations, we cannot reach the conclusion that they are necessarily or inherently stick figures or linear frame representations. Appellants argue throughout the brief and reply brief that the examiner has not specifically identified that Nitta teaches animating one or more linear frame representations

corresponding to said one or more participants in response to said changes in position as required by the language of independent claim 1. (See brief at page 8 et seq. and reply at page 2 et seq.) The examiner maintains that columns 6-7 of Nitta teach the use of reflective dots which would provide position information. While these reflective dots may provide position information, the examiner has not identified how this position information would necessarily be used, as required by 35 USC § 102, in animating one or more linear frame representations corresponding to said one or more participants in response to said changes in position as required by the language of independent claim 1.¹ Therefore, we find that the examiner has not established a ***prima facie*** case of anticipation, and we cannot sustain the rejection of independent claim 1 and its dependent claims 2-10. Independent claims 11 and 21 contain similar limitations which the examiner has not shown are taught by Nitta. Therefore, we find that the examiner has not established a ***prima facie*** case of anticipation, and we cannot sustain the rejection of independent claims 11 and 21 and their dependent claims 12-20 and 22-30.

¹ With this said, we make no findings with respect to the obviousness of the use of linear frame representations or other reduced data formats in image transmission in view of the teachings of Nitta.

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CONCLUSION

To summarize, the decision of the examiner to reject claims 1-30 under 35 U.S.C. § 102 is reversed.

REVERSED

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| JOSEPH L. DIXON |) | |
| Administrative Patent Judge |) | |
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| |) | BOARD OF PATENT |
| HOWARD B. BLANKENSHIP |) | APPEALS |
| Administrative Patent Judge |) | AND |
| |) | INTERFERENCES |
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| |) | |
| |) | |
| MAHSHID D. SAADAT |) | |
| Administrative Patent Judge |) | |

JD/RWK

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